

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 667X)

CSX TRANSPORTATION, INC.-ABANDONMENT  
EXEMPTION-IN HARLAN COUNTY, KY

Decided: September 12, 2006

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 12.56-mile rail line on its Southern Regions, Huntington Division-West, Cumberland Valley Subdivision, from milepost OWH-258.5 to the end of the track at milepost OWH-271.06, in Harlan County, KY. Notice of the exemption was served and published in the Federal Register on May 11, 2006 (71 FR 27530-31). The exemption was scheduled to become effective on June 10, 2006, but on May 23, 2006, and June 8, 2006, Pardee & Curtin Realty LLC (Pardee) and Seaside Holdings, Inc. (Seaside), respectively, late-filed formal expressions of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) to purchase the entire line.

Simultaneously with its notice of intent to file an OFA, Pardee requested that CSXT provide it with the financial data and information necessary to determine the line's net liquidation value (NLV). The Board accepted Pardee's and Seaside's late-filed notices of intent and, in a series of decisions, allowed additional time for the potential offerors to obtain the necessary data and file an OFA.

After receipt of NLV information from CSXT, Seaside timely filed its OFA to purchase the entire line on July 25, 2006.<sup>1</sup> By decision served on July 28, 2006, Seaside was found financially responsible and the effective date of the exemption was postponed to permit the OFA process to proceed. The July 28 decision also set August 24, 2006, as the deadline for either party to request the Board to establish the terms and conditions for the purchase price if CSXT and Seaside could not agree on the purchase price.

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<sup>1</sup> By letter filed on July 24, 2006, Pardee informed the Board that it was withdrawing its notice of intent to file an OFA.

On August 24, 2006, Seaside advised the Board that the parties have reached an agreement on the terms and conditions for purchase of the conveyance pursuant to 49 U.S.C. 10904(d)(2)(A) and 49 CFR 1152.27(f)(2), and requested that the Board approve the transaction and dismiss CSXT's notice of exemption. Seaside states that CSXT concurs in this request.

When a carrier and a person offering to purchase a line under the OFA process enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment notice of exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the notice of exemption will be dismissed.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10904, Seaside is authorized to acquire and operate the line.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the abandonment proceeding is dismissed, effective on the date the sale is consummated.<sup>2</sup>
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary

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<sup>2</sup> In the June 9, 2006 decision, the exemption was made subject to several environmental conditions, including one regarding endangered species, and a section 106 historic preservation condition. By decision served July 13, 2006, the endangered species condition was removed. The July 13 decision noted that the section 106 historic preservation condition imposed in the June 9 decision remain in effect. Because the line is being sold under the OFA procedures, the dismissal of the abandonment proceeding will render the remaining environmental and historic conditions moot.